

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII

901 NORTH 5TH STREET

KANSAS CITY, KANSAS 66101

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ENVIRONMENTAL PROTECTION

AGENCY-REGION VII

REGIONAL HEARING CLERK

IN THE MATTER OF)

Docket No.

CWA-07-2004-0221

The City of Hillsboro, Missouri)

Respondent)

NPDES Permit No. MO-0085383)

FINDING OF VIOLATION

AND ORDER FOR COMPLIANCE

Proceeding under Sections 308(a) and)

309(a) of the Clean Water Act, 33 U.S.C.)

§ 1319(a))

I. Statutory Authority

NOW THEREFORE, the following FINDINGS OF VIOLATION are made and ORDER FOR COMPLIANCE is issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency (EPA), by Sections 308(a) and 309(a) of the Clean Water Act (CWA or the Act), 33 U.S.C. § 1319(a) as amended, which authority has been delegated by the Administrator to the Regional Administrator, EPA Region VII, and further delegated to the Director, Water, Wetlands and Pesticides Division.

II. Findings of Violation

1. The City of Hillsboro, Missouri, (The City or Respondent) is a "person" as defined by Section 502(5) of the CWA, 33 U.S.C. § 1362(5), and is thus subject to its requirements.

2. The City owns a Publicly Owned Treatment Works (POTW), operating under NPDES Permit Number MO-0085383. This POTW discharges pollutants as a point source into a tributary of the Belew Creek, a "Water of the United States", as defined in Section 502(7) of the Act, 33 U.S.C. § 1362(7). Testing-Analysis and Control, Inc. (TAC) currently operates the City's plant.

3. Respondent's discharge of pollutants from the POTW requires a permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

4. The Missouri Department of Natural Resources (MDNR) is the state agency with the authority to administer the federal NPDES program pursuant to Section 402 of the Act,

33 U.S.C. § 1342, implementing regulations, and a Memorandum of Understanding Between EPA and MDNR dated October 30, 1974. The EPA maintains concurrent enforcement authority with authorized state NPDES programs for violations of NPDES permits.

5. The MDNR issued NPDES Permit No. MO-0085383 to the City for the Hillsboro Wastewater Reclamation Plant with the effective date of October 17, 2003, and the expiration date of October 16, 2008.

6. On or about October 21, 2003, the EPA conducted an inspection of the City's Wastewater Reclamation Plant.

Count I

7. The Standard Conditions, Part 1, Section B(1), to the NPDES Permit MO-0085383 require that all "discharges authorized herein shall be consistent with the terms and conditions of this permit. The discharge of any pollutant not authorized by this permit . . . shall constitute a violation of the permit."

8. NPDES Permit MO-0085383 further requires that "there shall be no discharge of floating solids or visible foam in other than trace amounts."

9. Part C of the NPDES Permit MO-0085383 includes Special Conditions which require the following:

"The following water quality criteria shall be applicable to all waters of the state at all times including mixing zones. No water contaminant, by itself or in combination with other substances, shall prevent the waters of the state from meeting the following conditions:

- a) Waters shall be free from substances in sufficient amounts to cause the formation of putrescent, unsightly or harmful bottom deposits or prevent full maintenance of beneficial uses;
- b) Waters shall be free from oil, scum and floating debris in sufficient amounts to be unsightly or prevent full maintenance of beneficial uses;
- c) Waters shall be free from substances in sufficient amounts to cause unsightly color or turbidity, offensive odor or prevent full maintenance of beneficial uses."

10. On or about May 15, 2003, the TAC reported to the MDNR a wastewater solids release into Belew Creek from the City's plant. On or about May 16, 2003, an MDNR inspector observed another release of wastewater solids into Belew Creek from the City's plant.

11. On or about May 26, 2004, the TAC reported to the MDNR another discharge of solids into a tributary of Belew Creek.

12. Discharges from the City's POTW as set forth above were not authorized in NPDES Permit MO-0085383, and therefore constitute a violation of the permit.

13. Respondent's discharge of solids into "Waters of the United States" in violation of the NPDES permit is a violation of Sections 301(a) and 402 of the CWA, 33 U.S.C. § 1311(a) and § 1342, and implementing regulations.

Count II

14. Respondent's NPDES permit also contains the following recording and sampling requirements:

a. "Recording of Results. For each measurement or sample taken pursuant to the requirements of this permit, the permittee shall record the following information: (i) the date, exact place, and time of sampling or measurements; (ii) the individual(s) who performed the sampling or measurements; (iii) the date(s) analyses were performed; (iv) the individual(s) who performed the analyses; (v) the analytical techniques or methods used; and (vi) the results of such analyses."

b. A removal efficiency of 85% or more shall be met.

15. During the October 21, 2003, Inspection, the EPA noted the following practices:

a. laboratory records failed to identify the employee collecting the samples, the employee performing the analysis and the type of analytical technique or method utilized; and

b. the City could not demonstrate they were meeting the 85% removal rate because they failed to sample the plant's in fluent.

16. Respondent's failure to record the required information and sample the required parameters is in violation of 40 C.F.R. § 122.41(j) and the terms and conditions of the NPDES permit for the City of Hillsboro and as such, is a violation of Sections 301(a) and 402 of the CWA, 33 U.S.C. § 1311(a) and § 1342, and the EPA's implementing regulations.

III. Order for Compliance

Based on the foregoing Findings of Violation and pursuant to the authority of Sections 308(a) and 309(a) of the Act, 33 U.S.C. § 1319(a) and § 1318(a), Respondent is hereby ORDERED AS FOLLOWS:

1. In accordance with the City's NPDES permit, the City must provide to the MDNR and the EPA a copy of the City's plan for eliminating inflow and infiltration (I&I) from the wastewater treatment plant and collection system, including time frame for implementation, by July 1, 2004.

a. If the EPA approves of the plan for eliminating I&I, the plan shall be implemented according to the time frames in the approved plan.

b. If the EPA approves of the plan for eliminating I&I with comments, the City shall incorporate the comments into the plan and implement the plan according to the time frames in the approved plan.

c. If the EPA disapproves the plan for eliminating I&I with comments, the City shall address the comments and resubmit the plan for approval within thirty (30) days of receipt of disapproval.

d. Upon re-submission, the EPA, in their sole discretion, may either approve the plan, or if the EPA determines that the plan does not adequately address the comments, the EPA may unilaterally modify the plan, and will provide Respondent with a copy of the plan as modified. If, upon re-submission, the plan or portion thereof, is modified by EPA, Respondent shall be deemed to have failed to submit the plan timely and adequately and therefore in violation of this Order.

2. Upon receipt of the EPA approval of the plan submitted under Paragraph 1 above, and modified and resubmitted (if required) under Paragraph 1 above, the approved plan shall be incorporated into and become enforceable under this Order. Respondent shall implement the provisions of the plan, as approved.

3. The City shall provide the EPA and MDNR with a report of progress under the plan within ninety (90) days after receipt of notice of approval of the plan, and every ninety (90) days thereafter, until the City has completed all activities required under the plan.

4. The City must construct additional sludge storage as identified in the October 2003 Inspection Report and provide the EPA with a detailed report by November 15, 2004, explaining how the City resolved this matter.

5. Upon receipt of this Order, the City must provide to EPA on a quarterly basis laboratory records and Discharge Monitoring Reports (DMRs) for the next year demonstrating that the City has resolved the recording and sampling violations noted above in count II.

6. Respondent shall send all responses required by this Order to be submitted to EPA to:

Berla Johnson
Environmental Engineer
Water, Wetlands and Pesticides Division
U.S. Environmental Protection Agency
Region VII
901 North 5th Street
Kansas City, Kansas 66101

7. Respondent shall send copies of all deliverables required under this Order to:

Kevin Mohammadi
Enforcement Chief
Water Pollution Control Program
Water Protection and Soil Conservation Division
Missouri Department of Natural Resources
P.O. Box 176
205 Jefferson Street
Jefferson City, Missouri 65102-0176

IV. Failure to Comply

8. The City's compliance with this Order does not constitute compliance with the provisions of the Clean Water Act, 33 U.S.C. § 1251 et seq., or with the City's NPDES permits. The City shall remain solely responsible for compliance with the terms of the Clean Water Act and this Order. Issuance of this Order shall not be deemed an election by EPA to forego any civil or criminal action to seek penalties, fines, or other appropriate relief under this Act, including criminal punishment as provided in Section 309 of the Act, 33 U.S.C. § 1319.

V. Not a Permit

9. This Order does not waive or modify or in any way relieve the City of its obligations imposed by its permits, the Act or any Local, State, or Federal law.

VI. Effective Date

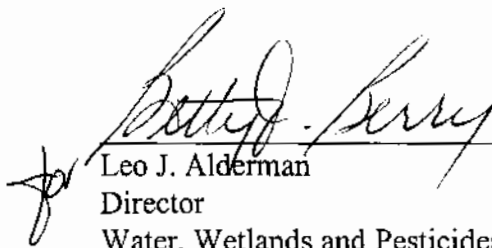
10. EPA has notified the State of Missouri of the above Findings and this Order.


11. This Order shall become effective upon the date of receipt by Respondent as documented by the certified mail, return receipt requested card signed by a City employee upon receipt.

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12. This Order shall remain in effect until a written notice of termination is issued by an authorized representative of the U.S. EPA. Such notice shall not be given until all of the requirements of this Order have been met.

June 21, 2004
Date


Leo J. Alderman
Director
Water, Wetlands and Pesticides Division
U.S. Environmental Protection Agency
Region VII
901 North 5th Street
Kansas City, Kansas 66101


Liz Huston
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region VII
901 North 5th Street
Kansas City, Kansas 66101

IN THE MATTER OF The City of Hillsboro, Missouri
Docker Number CWA-07-2004-0221

CERTIFICATE OF SERVICE

I certify that the original and a true and correct copy of the foregoing Finding of Violation and Order for Compliance was hand delivered to the Regional Hearing Clerk, Region VII and sent in the following manner to:

Copy hand delivered to
Attorney for Complainant

Liz Huston
Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

The Honorable Frank Roland, Mayor
City of Hillsboro
101 Second Street
Hillsboro, Missouri 63050

Dated: 6/21/14

Debby White